



South Carolina House of Representatives

Legislative Update

James H. "Jay" Lucas, Speaker of the House

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HOUSE WEEK IN REVIEW

The House of Representatives returned **S.47** to the Senate with amendments. The legislation makes provisions for **EQUIPPING LAW ENFORCEMENT OFFICERS WITH BODY-WORN CAMERAS** that make audio and video recordings. The legislation requires state and local law enforcement agencies to implement the use of body-worn cameras according to guidelines established by the Law Enforcement Training Council. Deadlines are set within a year's time for conducting a study of jurisdictions where body-worn cameras are in use and then for producing guidelines that address such issues as which law enforcement officers must wear cameras, when they must be worn and activated, and how consent should be obtained from victims and witnesses for recording their interviews. The Law Enforcement Training Council is charged with responsibilities for adopting and modifying detailed policies and procedures based upon the guidelines and for reporting to the General Assembly on such matters as retention policies for recorded data, privacy policies, program costs, and recommended law changes. A 'Body-Worn Cameras Fund' is established within the Department of Public Safety for the purpose of assisting state and local law enforcement agencies, the Attorney General's office, solicitors' offices, and public defenders' offices with implementation by addressing costs associated with such matters as the initial purchase of cameras, equipment maintenance and replacement, and data storage for recordings. A state or local law enforcement agency is not required to implement the use of body-worn cameras until it has received full funding. The legislation does not preclude a law enforcement agency from making its own provisions for body-worn cameras while awaiting statewide guidelines, policies and procedures and such agencies are eligible to apply to the Department of Public Safety to have their costs reimbursed. The legislation specifies that data recorded by a body-worn camera is not a public record subject to disclosure under the Freedom of Information Act. Provisions are made for the recorded data to be handled as evidence that is released and shared according to the state's rules of criminal and civil legal procedure. The legislation includes requirements that data recorded by a body-worn camera must be supplied to further a law enforcement agency's internal investigation regarding officer misconduct or disciplinary action as well as to fulfill requests made by the State Law Enforcement Division, the Attorney General, or a circuit solicitor for any legitimate criminal justice purpose. State and local agencies are authorized to release body-worn camera data at their discretion. The legislation includes provisions that a camera malfunction or failure to record, so long as it is not both wilful and malicious, does not require the dismissal of criminal charges. The legislation specifies that, if the video or audio data recorded by a body-worn camera is destroyed, deleted, altered, or stolen, the court may not use this occurrence alone as a ground to dismiss a civil or criminal action against a defendant.

The House approved **S.426**, the "**MENTAL HEALTH COURT PROGRAM ACT**", and enrolled the bill for ratification. Acting upon results of a mental health court pilot program that indicate potential additional benefits of statewide implementation, the legislation authorizes circuit solicitors to establish programs to divert qualifying mentally ill offenders away from the criminal justice system and into appropriate treatment programs, thereby reserving prison space for violent criminals and others for whom incarceration is the only reasonable alternative. Each circuit solicitor may establish a pre-adjudicatory or post-adjudicatory program, or a combination of both. Should state funding for implementation of a mental health court program be accepted, the solicitor must establish and

administer it. The Chief Justice of the South Carolina Supreme Court appoints all mental health court judges. Offenders would not be eligible for the program if they are charged with, or have a prior conviction for, a violent crime, harassment, or stalking, or otherwise meet the criteria that make them ineligible to participate in diversion programs.

The House approved **S.500** and enrolled the bill for ratification. This legislation makes **REVISIONS TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT** that incorporate the changes that were adopted by the National Conference of Commissioners for Uniform State Laws in 2008 addressing such matters as international recovery of child support and other family maintenance and determination of parentage. These updates to South Carolina's law are required by the federal "Preventing Sex Trafficking and Strengthening Families Act" and the receipt of various sources of federal funding is contingent upon the states maintaining uniform statutes.

The House approved **S.154**, relating to **STUDENT PARTICIPATION IN INTERSCHOLASTIC ACTIVITIES**, and enrolled the bill for ratification. This legislation expands the State Board of Education's authority to waive the academic requirements for students to participate in sports and other interscholastic activities by allowing the board to grant a waiver of the requirements if a student's ineligibility to participate in interscholastic activities is due to a long-term absence as a result of a medical condition, but the student has been medically cleared to participate, or for any other circumstance that board determines to be reasonable.

The House approved **S.463** and enrolled the legislation for ratification. This joint resolution directs the Department of Natural Resources to conduct a review of **WILDLIFE TAGGING, VALIDATION, AND METHODS OF CHECKING HARVESTED GAME** utilized in other states and to report its findings and recommendations to the Chairman of the Senate Fish, Game, and Forestry Committee, and the Chairman of the House of Representatives Agriculture and Natural Resources Committee by January 5, 2016.

The House and the Senate have appointed a conference committee to address the differences of the legislative bodies on **S.11**, a bill **ENHANCING PUBLIC NOTICE REQUIREMENTS FOR GOVERNMENT MEETINGS** under the state's Freedom of Information Act.

The House returned **S.183** to the Senate with amendments. The legislation incorporates Uniform Law Commission recommendations regarding **HUMAN TRAFFICKING** by: defining who is considered a trafficker; providing for expungement of prostitution convictions for victims of human trafficking; establishing a safe harbor for minors who are victims of human trafficking; excluding evidence of a victim's sexual history or history of commercial sexual activity, the specific instances of a victim's sexual conduct, opinion evidence of a victim's sexual conduct, and reputation evidence of a victim's sexual conduct; allowing a court to disgorge profits and disbar from state or local government contracts any business that aids or participates in a human trafficking offenses; and providing that an offender can be ordered to pay attorney's fees and an amount representing the value of the victim's labor or services as a part of restitution. The SC Attorney General Interagency Task Force for the Prevention of Trafficking in Persons is authorized to make grants to, or contract with, agencies or victim's services organizations to develop or expand victim services.

The House amended, approved, and sent the Senate **H.3325**, a bill establishing the **UNIFORM PARTITION OF HEIRS' PROPERTY ACT** as a means of preserving property rights in situations where land has been passed down through generations without written wills or properly probated wills so that the property is owned in common by multiple heirs. The legislation establishes a protocol for partitioning real estate when a court determines that the land meets the criteria established for heirs' property. This statutory protocol includes requirements for notifying those who own a percentage of the land as one of many heirs as well as provisions for conducting sales or making such other arrangements as dividing up the heirs' property among the cotenants by forming physically distinct and separately titled parcels.

The House amended, approved, and sent the Senate **H.3852**, a bill establishing procedures for transferring ownership of **UNCLAIMED UNITED STATES SAVINGS BONDS** to the state. The legislation provides that five years after a US savings bond reaches final maturity and no longer earns interest it is presumed to be abandoned and subjected to a protocol for unclaimed property. Bonds that remain unclaimed are ultimately transferred to the state.

The House amended, approved, and sent the Senate **H.3794**, a bill revising **DRIVER'S LICENSE RENEWAL** provisions. The legislation provides for a simplified ten-year driver's license renewal schedule for those who are under the age of sixty-five by eliminating current provisions for these individuals to satisfy vision screening requirements during the fifth year of a ten-year driver's license. The legislation retains the current five-year driver's license renewal period for those who are at least sixty-five years old and establishes a schedule that requires in-person renewal at a Department Of Motor Vehicles facility, but allows these senior drivers to renew a license through the submission of a certificate of vision examination once every ten years.

The House amended, approved, and sent the Senate **H.3027**, a bill establishing requirements for **ANNUAL STATE AGENCY REPORTS ON FEDERAL FUNDS**. This legislation requires that, by October thirty-first of each year, each state agency shall submit a report detailing its federal receipts and developing a plan should its federal funding be reduced. These reports must be relayed to the Governor and legislative budget-writing committees by November thirtieth. By February fifteenth of each year, the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee must place the most recently received reports on the agenda for review and consideration.

The House approved and sent the Senate **H.4080**, a joint resolution creating a temporary **VOTING SYSTEM STUDY COMMITTEE** to review information regarding the most current voting technology and make findings and recommendations on such matters as: voter-verified paper audit trail voting systems; the comparative security of all voting systems evaluated; the costs of acquiring, implementing, and maintaining various systems; the current canvassing schedule as it relates to the ability to conduct random audits of election results; and, amendments to voting machine statutes. Composed of three members of the House of Representatives, appointed by the Speaker of the House, three members of the Senate appointed by the Speaker Pro Tempore of the Senate, and one member appointed by the Governor, the study committee must make its report to the General Assembly by January 31, 2016, at which time it is dissolved.

The House approved and sent the Senate **H.4146**, a bill that expands the boundaries of the **MURRELL'S INLET-GARDEN CITY FIRE DISTRICT**.

HOUSE COMMITTEE ACTION

EDUCATION AND PUBLIC WORKS

The House Education and Public Works Committee met May 13, 2015 and passed out four bills.

H. 4084, SCHOOL LEADERS, passed the committee with an amendment. This bill authorizes a "school leader" to be hired to assist with the daily operation of the school. This bill also provides that a charter school is subject to the ethics and government accountability requirements for public members and public employees and that employees of the charter school are considered public employees and the school must include a statement of assurance of ethical compliance on behalf of the school.

The committee passed **S. 211** regarding **GOLF CARTS**. The bill provides that a political subdivision may create separate golf cart paths on the shoulder of its primary highways, secondary highways, streets, and roads under certain circumstances (separated from traffic using various devices).

The committee passed **H. 3909**, with amendment, "**THE BICYCLE AND PEDESTRIAN SAFETY ACT**". The bill provides that bicycles with helper motors (defined in the bill) shall be subject to all the rights and duties of bicycles. In regards to pedestrian safety, a pedestrian may cross the roadway equipped with countdown indicators if they can complete the crossing during the remaining time shown and also requires that a vehicle "stop" to yield to a pedestrian instead of being able to "slow down". This bill also provides consequences for drivers who fail to exercise due care and cause serious physical injury or death to persons operating the added categories of wheelchairs, farm tractors or a similar vehicles designed primarily for farm use. This bill also changes the definition of "markings" for bicycle lanes to also include a portion of the roadway or a paved lane by "pavement markings or signs which are used exclusively for the designation of bicycle facilities".

S. 261, PERSONS AGE SIXTY AND OVER ATTENDING CLASS passed the committee. This bill deletes the language that requires persons sixty and over receiving compensation as full-time employees to pay tuition while attending classes at state supported colleges, universities, and technical schools.

JUDICIARY

The House Judiciary Committee passed out the following bills on Tuesday, May 12, 2015:

The Committee approved, as amended, **S.78 FORFEITED LANDS EMERGENCY DEVELOPMENT ACT** to give county councils, forfeited land commissions, or county legislative delegations authority to petition the South Carolina Department of Revenue to use special authorities when certain forfeited lands have a significant adverse effect on their county. If SCDOR approves the petition, a county forfeited land commission is authorized to use listed emergency procedures for a period of five years from the approval date. These emergency procedures include establishing a revolving fund to pay for its legal and other expenses. The fund, which will be maintained by the county treasurer, must be established from a portion of forfeited lands sales proceeds. This fund cannot exceed fifty percent of any total amount. These funds may be expended for a commission secretary's salary, payments in connection with a commission decision to accept or reject a forfeited land becoming a county asset, obtaining clear title, payments to a certified realtor, property sale advertising costs, or any site clean-up costs. Under this act, forfeited land commission expenses include collecting a part of the forfeited land sales price by former owners and the disposition of land sale proceeds. Clearing title to forfeited land real estate shall be considered a commercial development project. As such, county councils may issue special revenue bonds for initial funding of revolving funds. When a revolving fund is established, it shall be dissolved when the fund is no longer needed to timely and effectively market or sell forfeited lands. Also, the provisions of this act do not apply to property when legal ownership by the defaulting taxpayer was acquired solely through intestacy involving more than one generation. Also, an immediate family member of a county forfeited land commissioner may not purchase land from that commission unless the sale is through a competitive bid process or the listing was open to members of the public.

The Committee approved, as amended, **S.133 JUVENILE CRIMINAL RECORD EXPUNGEMENT** that allows automatic juvenile record expungement for status offenses. It also contains a procedure for expungement of non-violent crimes and multiples crimes when an offender asks for it. Law enforcement agencies can file an objection to a requested expungement if the requestor has other charges pending or the charges are not eligible for a requested expungement. An order of expungement is discretionary if the offense is for a non-violent crime or if the requestor had multiple criminal offenses. An order for status offenses is automatic. Requestors could file a petition for expungement at age 17 and no longer have to wait until age 18 to make their requests.

The Committee approved, as amended **S.268 GRAND JURY AUTHORITY** to amend the processes for initiating the state grand jury, extending and expanding the state grand jury, exercising judicial oversight, and resolving conflicts of interest, and imposing disqualifications. When the Attorney General and the State Law Enforcement Division Chief determine it is necessary to initiate the state grand jury, the Attorney General only has to notify the chief administrative judge that the state grand jury is being initiated. After being notified, the chief judge will then be required to impanel the state grand jury. It also amends the standards for when a grand jury is needed. Current law states that the AG and SLED Chief may use the state grand jury when they "consider it necessary and normal investigative or prosecutorial procedures are not adequate." Under this bill, they would only have to show they "consider it necessary to enhance the effectiveness of investigative or prosecutorial procedures." Under this bill, the AG can automatically extend the state grand jury term for a period of six months, but cannot exceed 2 years total. Note that this bill sets out that the chief judge can discharge the state grand jury only by AG request. This bill limits the scope of the presiding judge's oversight of the investigation. Current law allows the judge to limit the investigation or discharge the state

grand jury if the judge determines the state grand jury is not conducting investigative activity within its jurisdiction. If the AG determines he is disqualified by a conflict, he may either refer the matter to a solicitor. Current law requires the AG to refer the matter to a solicitor if the AG has a conflict. The process for expanding the scope of the state grand jury is amended to allow the AG to expand it only by notifying the presiding judge. Current law requires that the AG request the judge to expand the scope of inquiry. It also adds a provision to require a bond hearing within two business days for bailable offenses true billed by the state grand jury. Accused offenders must be released within four hours after the bond is delivered to the detention facility holding the accused. Any Circuit Judge is allowed to hold the bond hearing if the Presiding Grand Jury Judge is not available after an arrest has been made on state grand jury charges.

The Committee approved, as amended, **S.590** for **IGNITION INTERLOCK INSTALLATIONS** when drivers are convicted of a second --or subsequent-- DUI offense in their employer's vehicle. This requirement will be applied retroactively to any driver currently serving a suspension or having been denied a license or permit due to an alcohol-related incident. The bill contains point assessments for drivers who try to circumvent an ignition interlock device. Probation, Pardons, and Parole is allowed to retain records beyond the normal time allowed for pending legal matters. It also makes it unlawful for drivers to circumvent the ignition interlock device during a retest.

LABOR, COMMERCE AND INDUSTRY

The Labor, Commerce and Industry Committee met on Thursday, May 14, and reported out several bills.

The committee gave a favorable report on **S.441**, the “**GUARANTEED ASSET PROTECTION ACT**”. The legislation establishes a framework within which lenders may offer a guaranteed asset protection waiver as an option for consumers in a motor vehicle finance agreement that offers protection from loss should a motor vehicle be stolen or totaled in an accident. Under the contractual agreement of a guaranteed asset protection waiver, or GAP waiver, a creditor agrees for a separate charge to cancel or waive all or part of amounts due on a borrower's finance agreement in the event of a total physical damage loss or unrecovered theft of the motor vehicle.

The committee gave a favorable report on **S.375**, a bill relating to **LOCAL GOVERNMENT SURPLUS PUBLIC FUNDS DEPOSITS**. The legislation revises provisions relating to securing deposits of funds by counties, municipalities, school districts, and other political subdivisions, by establishing new conditions under which a local governing body is allowed to deposit all or a portion of surplus public funds in its control or possession with a properly-insured financial institution.

The committee gave a favorable report on **S.301**, a bill relating to the **REGULATION AND OVERSIGHT OF CERTIFIED PUBLIC ACCOUNTANTS**. The legislation revises the composition of the South Carolina Board of Accountancy by expanding its membership from nine to eleven, providing for each congressional district to be represented by one certified public accountant board member, and by requiring that one of the two at-large members selected from the general public be a licensed attorney. The legislation revises certified public accountant licensure requirements by providing

authorization for applicants to undergo state and federal criminal records checks and by requiring continuing education or additional experience, as applicable, for applicants who delay submitting an application for a substantial period of time after passing the certified public accounting examination or obtaining accounting experience. The legislation revises qualifications for registration of a certified public accounting firm, so as to provide that a simple majority, rather than a supermajority, of the firm ownership must be certified public accountants. The legislation further provides qualifications and continuing professional education requirements for noncertified public accountant owners of these firms. In conducting investigation of complaints and disciplinary proceedings, the Department of Labor, Licensing and Regulation may require state and federal criminal records checks. The legislation establishes deadlines for filings applications for obtaining and renewing licenses and registration.

The committee gave a favorable report on **S.304**. This bill revises provisions relating to **CONTRACTS TO BUY POWER BETWEEN A JOINT POWER AND ENERGY AGENCY AND ITS CONSTITUENT MUNICIPALITIES**, so as to provide for the renewal or extension of contracts to buy power for additional periods not to exceed fifty years from the date of the renewal or extension. The revisions allow the Piedmont Municipal Power Association to extend its contractual arrangement with Duke Power regarding the Catawba Nuclear Station.

The committee gave a report of favorable with amendments on **S.389**, a bill revising provisions governing **SOUTH CAROLINA BUSINESS DEVELOPMENT CORPORATIONS** which provide loans for small businesses. The legislation further provides for the manner in which these corporations are organized, regulated, and permitted to operate, notably by expanding the area of operations for a South Carolina business development corporation so that it can transact business not only this state, but also in the larger surrounding areas that comprise Federal Reserve Districts Five and Six, spanning primarily the Southeastern United States.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

JUDICIARY

S.338 NOTICE OF HOUSING PRISONERS IN COMMUNITIES Sen. Martin

This bill requires any public, private, or nonprofit entity engaged in helping to rehabilitate and reintroduce paroled prison inmates in a community that includes in its program providing residential housing to these parolees must publish notice in a newspaper of general circulation the addresses for these residential housing facilities. They also must conduct a public hearing regarding their program and discuss the locations for these residential housing facilities.

H.4168 REPORTING FIREARM THEFTS/ LIZZY'S LAW Rep. Whipper

This bill requires an owner-- or other person lawfully in possession of a firearm, rifle, or shotgun-- to report any loss or theft of these firearms. It also requires appropriate law

enforcement agencies to collect specific information about lost or stolen guns. It contains a graduated set of penalties for failure to report a lost or stolen firearms.

H.4171 SC EMPLOYEE INJURY BENEFIT PLAN ALTERNATIVE Rep. Hiott

This bill updates the Workers Compensation Code to add a "South Carolina Employee Injury Benefit Plan Alternative." This alternative plan authorizes exemption from existing South Carolina Workers' Compensation laws, requires certain notice requirements, and mandates fee payments. In addition it sets out methods for collection and maintenance of certain information, prohibits certain rules and forms, sets out circumstances for adopting certain benefit plans, provides requirements for certain plans, authorizes standards and lump sum payments, authorizes settlement agreements and specifying conditions and limitations. Under its terms certain fees or costs are prohibited. Under the bill, qualified employers can insure certain types of risks. They can also secure employee compensation in specified ways, as well as have certain settlement agreements, financial security requirements, and hold certain insurance agents and brokers harmless for listed actions. Premiums, fees, and assessments for this program are also set out. This alternate plan is an exclusive remedy for employees covered by it.

H.4175 PROFESSIONAL OR BUSINESS LICENSE SUSPENSION FOR NONPAYMENT OF SUPPORT Rep. Neal

This bill allows suspension or revocation of particular licenses for professionals or businesses when child or spousal support is not paid.

H.4176 LEGISLATIVE DEPARTMENT AGENCY DRESS CODES Rep. Rutherford

This bill prohibits a Legislative Department agency from enforcing a dress code that is stricter than the dress code for all state employees.

LABOR, COMMERCE AND INDUSTRY

H.4169 FEDERAL HOME LOAN DELINQUENCY PROCEEDINGS UNDER THE INSURERS' REHABILITATION AND LIQUIDATION ACT Rep. Sandifer

This bill revises the Insurers' Rehabilitation and Liquidation Act by adding provisions specific to federal home loan banks and insurer-members of those banks in delinquency proceedings brought according to the act. The legislation revises provisions relating to injunctions and other equitable remedies available to receivers appointed in delinquency proceedings under the act, so as to provide circumstances in which federal home loan banks may exercise their rights regarding collateral pledged by its insurer-members involved in delinquency proceedings brought according to the act.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.4165 HOMEOWNER'S ASSOCIATION REGIME FEE Rep. King

This bill prohibits a homeowners' association from charging regime fees or imposing penalties to deployed or mobilized homeowners outside of the state.

WAYS AND MEANS

S.170 SALES AND USE TAX LIABILITY IN PAID REFERRAL ARRANGEMENTS WITH RETAILERS Sen. Kimpson

This bill establishes provisions under which a retailer is presumed to be liable for the sales tax or responsible for collecting and remitting the use tax if the retailer enters into an agreement with a resident of this State under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link on an Internet website or otherwise, to the retailer. Limitations are included so that the tax liability only applies to arrangements that exceed ten thousand dollars in the preceding twelve calendar months. Retailers that are subject to the responsibilities of these provisions must obtain retail licenses and properly remit sales and use taxes.

H.4187 INCLUSION OF PROBATE JUDGES IN THE RETIREMENT SYSTEM FOR JUDGES AND SOLICITORS Rep. W. J. McLeod

This bill makes provisions for including probate judges in the Retirement System for Judges and Solicitors that allow probate judges serving on July 1, 2015, the option of becoming a member of that retirement system.

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Legislative Update, May 19, 2015

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